

Honolulu, Hawaii
February 13, 2014

RE: H.B. No. 1973
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 1973 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Impose a penalty on an employer who does not pay an employee temporary partial disability benefits within fourteen calendar days after the end of the employee's customary work week; and
- (2) Clarify that an eligibility determination for disability benefits depends on the employee's entire record and the failure of the employee's attending physician to certify the employee's disability in a specialized form provided by the employer or the Department of Labor and Industrial Relations does not disqualify the employee from receiving disability benefits.

The Department of Labor and Industrial Relations, ILWU Local 142, and two individuals provided testimony in support of this measure. The Department of Human Resources Development, The Chamber of Commerce of Hawaii, Hawaii Insurers Council, and Building Industry Association of Hawaii provided testimony in opposition to this measure. The Department of Accounting and General Services provided comments on this measure.

HB1973 HD1 HSCR LAB HMS 2014-1833



Your Committee has amended this measure by:

- (1) Requiring an employee's attending physician to certify the employee's disability every thirty days or, if the employee's attending physician is not available, certification by another physician who has examined the entirety of the employee's medical records;
- (2) Allowing contemporaneous certification of an employee's disability status to be waived and allowing the retroactive certification of a disability, provided that the employee's attending physician has served as the employee's previous physician or if the previous physician is not available, another physician has had the opportunity to examine the employee's previous medical records with regard to the current pending claim;
- (3) Stipulating that retroactive certification may be requested only once and for a period not exceeding twelve months prior to the date of the request;
- (4) Specifying that retroactive certification is only required during the period that the employee's injuries have not reached medical stabilization or the employee is enrolled in the vocational rehabilitation process;
- (5) Changing the effective date to July 1, 2300, for the purpose of facilitating further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee notes that concerns were raised regarding the timing of payment by employers. The current law allows the Director of Labor and Industrial Relations to waive penalties imposed upon employers who make payments in good faith, upon a showing that timely payments could not have been made due to conditions over which the employers or carriers had no control. Your Committee will continue to work with parties to resolve these concerns.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1973, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1973, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,

A handwritten signature in black ink, appearing to read "Mark M. Nakashima", written over a horizontal line.

MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Twenty-seventh Legislature

HSCR 408-14

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 1973	Committee Referral: LAB, FIN	Date: 2-7-14	
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.			
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)			
LAB Members	Ayes	Ayes (WR)	Nays
1. NAKASHIMA, Mark M. (C)	/		
2. YAMASHITA, Kyle T. (VC)	/		
3. AQUINO, Henry J.C.	/		
4. ICHIYAMA, Linda	/		
5. TAKAYAMA, Gregg	/		
6. ING, Kaniela	/		
7. TAKUMI, Roy M.	/		
8. YAMANE, Ryan I.			/
9. JOHANSON, Aaron Ling		/	
TOTAL (9)	7	1	-
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)			
Vice Chair's or designee's signature: _____			
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO			